

# **Significance Threshold Approaches: Options for Statewide Consistency**

DRAFT for the SEPA IWG Thresholds Subgroup on August 1, 2008

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## **Introduction**

This document acts as a guide for the SEPA IWG discussion and decision-making about how to appropriately define a statewide significance threshold *approach* for considering greenhouse gas (GHG) emissions.

The following significance threshold approaches are outlined: 1) a standard, 2) a framework which includes some limitations or requirements, 3) a procedural requirement, and 4) a safe harbor where a threshold is defined by Ecology only if lead agencies and local governments do not adopt their own threshold.

Please note that Appendix A, which outlines specific significance threshold options, is attached at the end of this document. The significance threshold team decided that including this information may help some IWG members better understand the different threshold approaches. However, it should be noted that the Appendix has not been thoroughly vetted and is not organized in exactly the same manner as the *Significance Threshold Approaches* document.

## **Preamble**

This document characterizes options how to achieve state-wide consistency in threshold determinations (i.e., the significance threshold). At the July 8, 2008 IWG meeting, the sense of the group was that there should be state-wide consistency for making threshold determinations for actions with climate change impacts. This subgroup articulated several reasons for pursuing state-wide consistency including possible reduced litigation about the significance threshold and the consideration that if there was a challenge to the threshold Ecology would be responsible for defending it, reducing costs and allowing the agency with the most expertise the responsibility of defending it.

While there was consensus that a statewide approach should be considered, the form of the desired consistency was an open question. SEPA grants Ecology broad rule making authority. In particular RCW 43.21C.110(1) grants Ecology the authority to adopt “rules of interpretation and implementation” “for the purpose of providing uniform rules and guidelines to all branches of government ....” Further RCW 43.21C.110(1)(b) also grants Ecology the authority to adopt “[r]ules for criteria and procedures applicable” to threshold determinations. So Ecology seems to have ample authority to adopt a statewide threshold approach.

In this memorandum, we have expanded upon four approaches to achieve state-wide consistency: (1) a state-wide standard; (2) a state-wide framework which includes some

limitations/requirements for a standard and leaves choices to individual agencies on other aspects of a standard; (3) a state-wide procedural requirement that would allow and/or mandate local agencies to establish a standard of significance without expressly dictating what that standard should be; and (4) an approach where a “safe harbor” threshold is established by Ecology that could be used if a significance threshold is not otherwise defined by agencies or local governments.

Our discussion below does not address or decide whether a significance threshold should take the form of a new or amended regulation or of guidance provided by Ecology. We presume, at this point in time, that each of the four approaches may be able to be done through a rule or through guidance or some combination of the two.

Our discussion also below does not address specifically how mitigation should fit into this standard, although we acknowledge that one type of threshold determination (and perhaps currently the most commonly used) is a Mitigated Determination of Non-Significance.

Additionally, we note that the establishment of a specific, substantive state-wide standard for significant greenhouse gas/climate change impacts would be novel under SEPA. (Currently, there is no set substantive standard for a significance threshold for different types of impacts -- that determination is made by lead agencies on a case-by-case basis).

It is important to be aware of potential side-effect of specific definition of the SEPA threshold standard of significance. If state agencies and local government entities are required to adopt a specific threshold standard of significance for GHG emissions, that standard may result in a need for Ecology to review and potentially **repeal** existing categorical exemptions if the activities covered by those exemptions constitute “major actions” under the significance standard.

Any significance standard may also constitute a basis for legal challenge. RCW 43.21C.110(1)(a) provides that “[t]he types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment.” The state Supreme Court has held that this statutory limitation on categorical exemptions in the SEPA Rules does not allow “case-by-case” challenges of the application of categorical exemptions, but does allow “facial” challenges of categorical exemptions because they violate this limitation. *Dioxin/Organochlorine Center v. Pollution Control Hearings Board*, 131 Wn.2d 345, 932 P.2d 158 (1997). Although we have little legal guidance as to how such a facial challenge may be decided, we should be aware that specific standards of significance for GHG emissions might be the basis for facial challenges of existing categorical exemptions in the SEPA Rules if those categorical exemptions are the type that could create GHG emissions.

In conclusion, Washington law calls for significant, absolute reductions in GHG emissions in a growing state; crafting a SEPA significance threshold approach that can be broadly applied and effective in helping to reach this mandate is an important part of rising to this challenge.

## **Criteria to consider when considering the effectiveness of each approach**

- Does the approach achieve consistency and predictability across jurisdictions?
- Does it achieve appropriate analysis and support appropriate mitigation for impacts from GHG emissions (interconnectedness with the other major components of SEPA)?
- Is the approach scientifically based?
- Is the approach understandable and feasible for all agencies to use?
- Does the approach retain SEPA's umbrella role and ability to address unanticipated gaps in regulations?
- Does the approach have flexibility to adjust based on new science and better tools?
- Will the approach reduce SEPA litigation based on unclear significance thresholds?
- Will the approach create enough consistency between acceptable options that interagency disputes about significance are minimized?
- Does the approach help effectively reduce GHG emissions?
- Are the reductions consistent with Washington State Emissions Reduction Law (RCW 70.235.020(1)(a))?

### **Option 1: Statewide Standard**

The Department of Ecology would identify a statewide standard for determining whether a proposal causes significant adverse environmental impacts from its greenhouse gas emissions. The standard could be a single standard, different standards according to size or type, a range of standards, or tiered according to mitigation.

#### **Advantages**

- High level of predictability and consistency
- Minimal work and resources for agencies to define the significance threshold
- Provides agencies with confidence about using a standard that comes with a state level endorsement; a standard that has received statewide vetting will be compelling to use and compelling to accept
- More easily understood by the public, applicants, and lead agencies
- Reduces chances of having to wait years for legal challenges to define a significance threshold.
- Could reduce SEPA litigation based on unclear threshold standard
- Reduces agency and local jurisdiction legal vulnerability
- Threshold could be tied to WA State GHG emissions reduction law

#### **Disadvantages**

- Could be a challenge to ensure flexibility (for small jurisdictions, for all situations)
  - Could be difficult to make a standard flexible and usable for all jurisdictions

### **Decisions That Will Still Need to Be Made if This Option is Chosen**

- How mandatory should the standard be? (set in rule or described in guidance?)
- Will the threshold change in the future?
- What should the standard look like for non-project actions?
- Should the standard be one approach for all projects or should it be based on size of project, type of project?
- Should the standard be tiered to include incentives for well-designed projects?
- Should the standard make a strong connection between non-project analysis and a projects TD?
- If there will be statewide standard, would it be a single standard, tiered standards, etc.?
- Should the Significance Threshold be used as a means of complying with State wide emission reduction goals?
- Should the state wide emission reduction goals be used as a guideline in developing a significance threshold for GHG?
- How can this standard be set to allow for flexibility to adjust based on new science and better tools?

### **Implications for Mitigation**

- Could set clear sense of when mitigation would reduce below the threshold
- Or, conversely, it could necessitate the development of independent mitigation requirements

### **Other Considerations**

- State and local agency resource impacts costs and staffing
- Single threshold v. Multiple threshold
- Short term vs. long-term considerations
- Time frame of analysis, impacts and mitigation for projects

### **Option #2: Statewide Framework**

The intention of this approach is to provide a common platform for public agencies to ensure that GHG emissions are appropriately considered and addressed under SEPA while climate action plans and other regulatory programs for climate change impacts are being developed. Examples of a framework could be flexible ranges of standards, such as choosing a % based reduction or choosing a threshold based on the emissions or size of a project.

### **Advantages**

- Flexibility for each agency
- Flexibility to address referenced emissions limits/targets
- Flexibility to address best available science and available mitigation
- Less burden than Option #3 on agencies to develop the threshold

### **Disadvantages**

- Potential lack of statewide consistency

- Potential legal conflict between jurisdictions/agencies
- Greater support required for interpretation of varied local regulations
- More burden than Option #1 on agencies to develop the threshold

### **Decisions That Will Still Need to Be Made if This Option is Chosen**

- How can the framework be adjusted to accommodate changes in best available science, reference targets etc.?
- What are the legal risks with potential inconsistencies between agencies and within agencies between different proposals?
- Will the flexible scenarios help to achieve the WA State reduction requirements and be consistent with the law?

### **Implications for Mitigation**

- Depending on the type of framework chosen, the significance threshold could act as a type of level of required mitigation (e.g. % below an unmitigated scenario). Framework types that rely on levels of GHG emissions or project size would likely need a separately defined level of mitigation so as to avoid penalize large sized projects indiscriminately.

### **Option 3: Procedural Requirement**

Agencies and local governments would be required to establish a threshold standard of significance for GHG emissions by a specified date. The requirement would be enacted by amendment of SEPA Rules or the SEPA statute. The requirement would not necessarily impose any limitations on the content of the GHG significance standard adopted by the agencies, i.e. there could be very broad sideboards within which agencies must establish their standards. Such procedural requirements usually include a deadline for compliance and some kind of sanction for noncompliance. However, sometimes there are no sanctions.

### **Advantages**

- Precedence of this approach
  - SEPA Rules already require agencies to adopt SEPA Procedures addressing a lot of areas of SEPA compliance. Some of these requirements are purely procedural with no state limitations on the content of the agency SEPA procedures; other such requirements are constrained by state requirements or bookends.
  - Most of GMA's requirements for local governments are procedural in nature; and a number of GMA requirements go further and constrain local governments with some state requirements or bookends limiting the range of local discretion.
- Flexibility for each agency
- Flexibility to address best available science and available mitigation

### **Disadvantages**

- Potential lack of statewide consistency
- Potential legal conflict between jurisdictions/agencies
- Greater support required for interpretation of varied local regulations

- Places greater burden to develop a threshold on agencies than Options #1 or #2

### **Decisions That Will Still Need to Be Made if This Option is Chosen**

- How can the flexible scenarios be defined to help achieve the WA State reduction mandates and be consistent with the law?

### **Implications for Mitigation**

- Mitigation thresholds would need to be addressed independently depending on the type of significance threshold defined by each lead agency or local government.

### **Option 4: Safe Harbor**

Ecology could establish a “safe harbor” threshold or options that state agencies and local governments could use unless they develop their own significance threshold.

### **Advantages**

- Since the safe harbor would be the path of least resistance, many state agencies and local governments would likely use it, bring increased uniformity and predictability to SEPA threshold determinations for greenhouse gas generation impacts.
- If the safe harbor was properly devised, it would result in an appropriate analysis and support proper mitigation.
- If the safe harbor was properly devised, it would be scientifically based at least in part. It could be flexible enough to incorporate new science and better tools as they are developed.
- State agencies and local governments would have a choice. They could use the safe harbor or adopt their own standard.
- Agencies that had specialized needs could develop their own threshold that met that specialized need or that addressed very specific types of actions.
- If the safe harbor was properly devised, it should be understandable and feasible for all agencies to use in most cases.
- The safe harbor would reduce costs for state agencies and local governments since they could chose to use the Ecology safe harbor. The agencies and local governments could also make use of the tools prepared to apply the standard and training that is likely to be provided by Ecology or others. This would also reduce costs. Costs savings would also result from the fact that the safe harbor could not be challenged.

### **Disadvantages**

- Since local governments and state agencies could also choose their own thresholds, there would not be a uniform threshold throughout Washington State.
- The lack of a uniform threshold would reduce predictability for businesses and organizations that operation in multiple jurisdictions.
- Some who believe in local choices believe that a safe harbor would become a uniform state floor and that the option to prepare your own standard would be illusory since some

believe the jurisdiction would have to show that the jurisdiction's option was as "good" as the safe harbor.

- Some who believe in local choices believe that if there is a safe harbor available, local governments and state agencies will be pressured to use it whether it fits their circumstances or not.
- Having multiple standards for when an EIS must be prepared will complicate review by the administrative agencies (the shorelines hearings board and growth management hearings boards) and the courts.
- Unless nearly all agencies and local governments adopt the safe harbor default, administrative agency and judicial review will be much more complicated. Litigation will be more likely and more expensive.

### **Decisions That Will Still Need to Be Made if This Option is Chosen**

- What should the default significance threshold approach be (could be a standard, a framework, or possibly a procedural requirement with some requirements)?
- What, if any sideboards or directives should be put into the option when the jurisdiction adopts their own threshold?
- Should there be guidance for "how" to implement the safe harbor threshold?

### **Implications for Mitigation**

The mitigation implications depend in large part on what sort of safe harbor is adopted. One or more numeric standards may lend themselves to mitigation if the right tools are available. A broad non-quantified standard may not. On the other hand a non-quantified standard will give significant flexibility in mitigation, which would be advantageous if information that quantifies mitigation measures is not readily available or unreliable.

## **Appendix A – Options for Significance Standard**

Hilary Franz and Patricia Betts

This Appendix discusses six options that can be pursued when contemplating the issue of SEPA standard significance thresholds for greenhouse gas emissions. This Appendix explores each option and discusses the advantages and disadvantages of each.

### **I. DEGREE OF REQUIREMENT**

- Set in rule, required to be used for determining significance (and possibly used for determining mitigation)
- Presented in guidance, directing agencies to use it for determining significance, but with no “teeth” nor directive for agencies to adopt it.

### **II. STATEWIDE STANDARD**

#### **1) Zero Significance Threshold**

##### ***Description:***

This approach sets the GHG emission threshold at zero tons/year. Under this approach any increase in emissions would be significant.

- Projects that result in a reduction of GHG emissions compared to baseline emissions would be less than significant. Projects that result in a net increase of GHG emissions would be required to mitigate their emissions to zero or exceed the threshold.
- This threshold approach is based on the belief that 1) all GHG emissions contribute to global climate change and could be considered significant, and 2) not controlling emissions from smaller sources would be neglecting a major portion of the GHG inventory.

Project: Steps: 1) inventory of GHG emissions generated by project, 2) inventory of energy needs of project, and 3) provide onsite and offsite mitigation to reduce GHG emissions to net zero or exceed the threshold.

Non-Project: Steps: 1) provide an inventory of GHG emissions generated within the planning area, 2) provide an inventory of energy needs of the planning area, and 3) develop a GHG Reduction Plan for the planning area that implements the GHG Emission Reduction to zero or exceed the threshold.



***Advantages:***

- Addresses the cumulative impact of many small GHG sources. While individually many GHG sources are too small to make any noticeable difference to climate change, it is also true that the countless small sources around the globe combine to produce a very substantial portion of total GHG emissions.
- Under this option, all projects subject to SEPA would be required to quantify and mitigate their GHG emissions. All would fall under the SEPA microscope.
- Potentially greater degree of certainty for project proponents
- Possible to establish GHG Best Practices for smaller projects to achieve compliance without forcing extensive analysis for them

***Disadvantages:***

- Increased administrative costs and pressure on environmental review system capacity given that some projects that previously would have qualified for an exemption could require substantial analysis.
- May be that the increased volume of projects requiring review reduces the quality of consideration given to review worst projects
- Should consider whether meaningful mitigation can be achieved from smaller projects

*Questions: Does establishing a significance threshold of zero affect the use of categorical exemptions?*

*Possible strategies: If regulatory approach is pursued, 197-11 could provide caveats (exceptions) for exemptions. These caveats or exceptions could mention BMPs for climate impacts as a means to remain exempt or could require analysis and limit it to climate change. If the procedural approach is pursued, agencies could create their own exceptions to the exemptions as with critical areas (197-11-908).*

2) Non-zero Significance Threshold

1. **Option 1:** Set x tons/unit threshold or x tons/year threshold

***Description:*** Set a bright line numerical threshold approach

Project: If the threshold was set at xx tons per year then each project that exceeds that threshold would be considered to have a significant impact (e.g., residential

development threshold = 900 tpy, an industrial project could not exceed 25,000 tpy). A project could then use mitigation to bring itself below the threshold.

Steps are: 1) inventory of GHG emissions generated by project, 2) inventory of energy needs of project, and 3) if above XX tpy threshold then provide onsite and offsite mitigation to reduce GHG emissions to below threshold.

Nonproject: 1) provide an inventory of GHG emissions generated within the planning area, 2) provide an inventory of energy needs of the planning area, and 3) develop a GHG Reduction Plan for the planning area that implements the GHG Emission Reduction to below the numerical threshold or adopt feasible reduction measures to reach GHG reduction target and come below numerical threshold.

### ***Advantages***

- Excludes small projects that have a relatively small contribution to state GHG inventory
- Single threshold easier to apply to projects and more easily understood by the public, applicants and lead agencies.

### ***Disadvantages***

- If set too low may discourage mitigation and if set too high may not capture enough projects to meet state requirements of GHG reduction targets
- Larger projects shoulder greater burden of reductions to compensate for smaller projects not requiring mitigation, in order to reach reduction targets statewide.

## **2. Option 2: Meeting WA State GHG Reduction Requirements**

### ***Description:***

In 2008, the Washington State Legislature set requirements for reducing statewide GHG emissions to 50 % below 1990 levels by 2050. RCW 70.235.020(1)(a). RCW 70.235.020(1)(b) specifically authorizes actions to achieve these reductions under existing statutory authority, which would include SEPA. Since one of the SEPA considerations for when an EIS is required is whether an action is inconsistent with state law, the adoption of limits is significant for SEPA review.

Reducing GHG emission levels 50 % below 1990 levels would require a certain percent reduction of business-as-usual GHG emissions. In this context, business-as-usual means the emissions that would have occurred in the absence of the mandated reductions.

This threshold option would require a project/nonproject to show a percent reduction target in order to be considered less than significant.

Project: This threshold approach would require a project to meet a percent reduction target based on the average reductions needed from the business-as-usual emission from all GHG sources. Using the 2020 target, this approach would require all discretionary projects to achieve a XX percent reduction from projected business-as-usual emissions in order to be considered less than significant. A more restrictive approach would use the 2050 targets.

Nonproject: For the nonproject, this approach would follow the San Bernardino example. Local jurisdiction determines 1990 emissions, its current emissions, and its projected emissions. It then calculates the necessary reductions/net emissions to meet 50% below 1990 target requirements. Any proposal that does not meet the reduction (net emissions) state levels, would be considered to have significant impacts on climate, and all the climate change associated indirect effects.

### **3. Option 3: Uniform Based Percentage Reduction**

#### ***Description:***

State would adopt a percentage reduction below business as usual necessary to reach set level overall as end strategy (could be part of achieving the state GHG reduction requirements or another number based on science).

For a Project Action: A project would be required to meet a percent reduction target based on the average reductions needed from the business-as-usual emission from all GHG sources to be considered less than significant. (E.g., the threshold could be 15 tpy per residential unit (25% below BAU) and 50 tpy per 1000 sq. ft. retail (25% below BAU)).

For a Non-Project Action: Including in Comprehensive planning documents measures necessary to reach percentage reduction in GHG. Such measures could include mitigation in the area of energy efficiency and conservation, recycling and waste management, transportation, water, and land use and design.

#### ***Advantages of Options 2-3 Percentage Based Approach:***

- Using a percentage/time based requirement as the basis for a significance threshold may be more appropriate to address the long term adverse impacts associated with climate change

- If this goal is connected to the statewide requirements then it presents more likelihood of actually achieving statewide requirements.

***Disadvantages of Options 2-3 Percentage Based Approach:***

- Difficult to allow for changes in the baseline and future emission inventories estimates
- Projecting future inventories over the next 15 to 50 years involves uncertainty.

**4. Option 4: Standard Threshold By Type of Project**

***Approach 1: Quantitative Threshold Based on Market Capture***

**Project**

- Residential: Review data from at least 20 diverse cities and counties on pending applications for development. Determine the unit threshold that would capture approximately 90 percent of the residential units in the pending application lists. (E.g., in CA based on data of 90%, thresholds selected would be 50 residential units. GHG emissions associated with 50 single-family residential units is 900 metric tons/yr. So single threshold is 900 metric tons for residential projects.)
- Office: Similar approach for residential with threshold being 30,000 square feet. So single threshold of 900 metric tons.
- Industrial: Less amenable to a unit-based approach given diversity of projects within sector. Option would be to adopt a quantitative GHG emissions threshold for industrial projects equivalent to that for the residential/commercial thresholds.

Nonproject: Option would be to adopt a quantitative GHG emissions threshold for nonprojects equivalent to that for the residential/commercial thresholds.

***Advantages***

- Proposed threshold would exclude the smallest proposed developments from potentially burdensome requirements to quantify and mitigate GHG emissions
- Captures 90 percent of each market to show that cumulative reductions are being achieved
- Requires vast majority of new dev't emission sources to quantify GHG

### ***Disadvantages***

- Requires extensive information on jurisdictional applications for each economic sector.
- Data changes over time
- Necessary data and resources not likely available presently.
- Larger projects shoulder greater burden of reductions to compensate for smaller projects not requiring mitigation, in order to reach reduction targets statewide.

### ***Approach 2: Uniform %-Based Reduction by Economic Sector/ by Region***

#### ***Description:***

This threshold option would use a tons/year GHG threshold specific to the economic sector associated with a project.

For Project Action: There would be specific threshold for each economic sector (residential, commercial, and industrial). E.g., For residential could set at xx tpy which would be set based on percent of projects trying to capture.

For Non-Project Action: This uniform percentage based reduction could also be applied to a geographic region for purposes of non-project action. The threshold standard could specify a percentage level for regions of the state. The areas within each region required to plan must then demonstrate that through their plans they are in compliance with the percent reduction goal.

### ***Advantages***

- Allows selection of the best regulatory goal for each sector taking into account available technology and costs
- Avoids over-regulating projects (i.e., requiring emissions to be controlled in excess of existing technology) or under-regulating projects (i.e., discouraging the use of available technology to control emissions in excess of regulations)

### ***Disadvantages***

- Requires extensive information on the emission inventories and best available control technology for each economic sector.

- More viable option in the long term but necessary data and resources not likely available presently.
- Larger projects shoulder greater burden of reductions to compensate for smaller projects not requiring mitigation, in order to reach reduction targets statewide.

**Approach 3: A flexible range based on amount of GHG emissions**

***Description:***

- *e.g. choose between 500 and 5,000 MTCO<sub>2</sub>e*
- *e.g. choose between a number of units (5- 20 residential units)*
- *e.g. choose another GHG emissions reporting requirement ( 2,500 for mobile sources and 10,000 MTCO<sub>2</sub>e for stationary sources)*

***Advantages***

- Could capture a certain % of development related emissions
- Could be defined to capture most emissions but exclude small projects
- Could lower burden on small developments
- Could lower burden on SEPA lead agencies

***Disadvantages***

- Requires knowledge of the type of projects and their GHG emissions that are likely to go through each SEPA lead agency
- Larger projects shoulder greater burden of reductions to compensate for smaller projects not requiring mitigation, in order to reach reduction targets statewide.
- **Approach 4: Identify certain types of projects (e.g., industrial projects, mining projects, road projects) as significant without mitigation and prescribe feasible mitigation measures based on project size and type**

**5. Option 5: Standard Threshold by Size of Project**

***Description***

Projects of a certain size would qualify as exceeding the threshold. E.g.,

proposed residential dev't of more than x dwelling units, proposed shopping center or business employing more than x number of people or encompassing more than x square feet of floor space, proposed hotel of more than x rooms.

The question with this approach is what is the threshold number the project must mitigate under – does it mitigate to point of reducing GHG emissions to level of project size below threshold.

### ***Advantages/Disadvantages***

Same advantages and disadvantages as Option 1 under the Non-Zero Threshold.

Project: e.g., If the threshold was set at 15 residential units/10,000 sq.ft commercial space, each project that exceeds that size would be considered to have a significant impact. A project could then use mitigation to bring itself below the level of 15 residential units/ 10,000 sq. ft.

## **6. Option 6: Tiered Approach/Decision Tree Approach**

### ***Description***

The goal of this approach is to maximize reduction predictability while minimizing administrative burden and costs. This would be accomplished by prescribing feasible mitigation measures and reserving the detailed review of an EIS for those projects of greater size and complexity.

This approach would “bin” projects based on established characteristics, with increasing requirements for each bin, or tier

#### **Tier 1: Less than Significant:**

Emissions associated with a project/plan are assumed to have a significant impact unless one can arrive at a less-than-significant finding by at least one of the following methodologies:

- a. For Non Project Action, Demonstrate that a Comprehensive Plan is in compliance with State’s goal or other stated standard threshold (zero-threshold, uniform % reduction threshold, etc.).
  - (E.g., CP fully document 1990 and 2020/50GHG emission inventories, where demonstrate its 2020/50 mitigated emissions are XX % less than 1990 emissions than it is considered less than significant.

- b. For Project Action, Demonstrate Project can meet standard threshold requirement with Level 1 reduction measures to comply with other legal authority (state requirements, other local policies and regs) –
- (E.g., if threshold set at zero then project not significant impact if can show meets zero net GHG emissions, or if threshold set at Quantitative (tons/year) or Qualitative (unit based on market capture) then project not significant impact if comes below Quantitative or Qualitative threshold due to other legal authority.)

**OR**

- c. For Project Action, Demonstrate the Project is Exempt
- (E.g., for CA projects funded under its Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act and Disaster Preparedness and Flood Prevention Bond Act may be exempt)

**OR**

- d. For Project Action, Demonstrate that the project is on the “Green List”.
- The Green List would consist of a list of projects and project types that are deemed a positive contribution to state efforts to reduce GHG emissions. (Ex. A wind farm that had negligible construction emissions; Small hydroelectric at existing facilities that generate 5 mw or less; increase in bus service along an existing bus line; Dev’t of bicycle, pedestrian, or zero emission transportation infrastructure to serve existing regions; Extension of transit lines to currently developed but underserved communities; Recycled water projects that reduce energy consumption related to water supplies, etc.)

**OR**

- e. For Project Action, Demonstrate that project is consistent with local jurisdiction’s GHG Reduction Plan.
- Where a project can demonstrate it is consistent with an appropriate Comprehensive Plan’s GHG Reduction Plan (CGRP), the project can be declared less than significant. Comprehensive planning would analyze GHG emissions, significance, mitigation, etc. and develop a Greenhouse Gas Reduction Plan (GGRP). Project would start with



analysis done at non-project stage and verify if the project was consistent with the plan and if appropriate non-project analysis for GHG emissions was conducted . Requires thorough GHG analysis at non-project level.

*Tier 2: Exceeds Threshold but Mitigated to Less than Significant:*

In Tier 2, for those projects that did not meet threshold under Tier 1 analysis, they would be required to implement a comprehensive set of Level 2 mitigation that brings them below the threshold. Quantitative and Quantified inventories would be required.

- a. If apply a zero threshold: Project results in a net increase of GHG emissions, but mitigation to zero
- b. If apply a Quantitative (tons/year) implement a comprehensive set of Level 2 mitigation that brings them below the threshold (Ex. Parking reduction beyond code, solar roofs, LEED Silver or Gold Certification, TDM meaasures, etc.)
- c. If apply a Qualitative (unit-based market capture- # of dwu, sq ft space or per capita ratio) threshold: a lower 2 threshold (the low “bar”) would se set. Above Tier 2 threshold then required to implement comprehensive set of Level 2 mitigation. Projects below Tier 2 threshold not required to quantify emissions or reductions.

*Tier 3: Significant and Unavoidable Impacts or Mitigated to Less than Significant:*

If mitigation still exceeds the Tier 2 threshold, an even more aggressive set of Level 3 mitigation measures would be required to reduce emissions below the Tier 2 threshold. In Tier 3 for those projects that did not meet threshold after Tier 2 mitigation and analysis, the project would be required to reduce net emissions using Level 1 reductions, as well as Level 2 and 3 mitigations. This tier would distinguish the larger projects from the smaller ones.

- a. Projects may remain significant and unavoidable where mitigation infeasible to reduce emissions to zero (e.g., cost to offsets infeasible for project or offsets not available)
- b. For Quantitative approach, more aggressive set of Level 3 mitigation measures would be required (could include such measures as on-site renewable energy system LEED Platinum certification, required

recycled water use for irrigation, etc. that would mitigate to less than significant.)

- c. For Qualitative approach, apply Level 3 mitigation and require offsets for remainder (when feasible) in the amount of 90 percent of net emissions after application of Level 1, 2 and 3 mitigation. A variant could be to require mandatory Level 3 mitigation without quantification and offsets.

### ***Advantages***

- Allows flexibility by establishing multiple thresholds to cover a wide range of projects
- Tiers could be set at different levels depending on GHG emissions, size and characteristics of projects
- Could design to support WA state GHG reduction goals

### ***Disadvantages***

- Similar disadvantages as explained in approaches above.

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### Table 1: Option 6 Tiering Approach

[illegible]

Chart on next page from the CAPCOA CEQA and Climate Change White Paper. Available: <http://www.capcoa.org/ceqa/CAPCOA%20White%20Paper%20-%20CEQA%20and%20Climate%20Change.pdf>

# Climate Change Significance Criteria Flow Chart

- This chart pictorially represents how an agency can determine a project's or plan's significance for CEQA analysis.
- The emissions associated with a project/plan are assumed to have a significant impact unless one can arrive at a less-than-significant finding by at least one of the methodologies below.

